

REMARKS

I. General

Claims 1-10, 21-30, 41-42, and 53-57 were pending in the present application. The present Final Office Action (mail March 30, 2009) raises the following issues:

- The claims are objected to because the lines in Applicant's previous response are asserted as being crowded too closely together.
- Claim 41 is objected to.
- Claims 1-10, 20-30, 41-42, and 53-57 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,104,798 to Lickiss et al. (hereinafter "*Lickiss*") in view of U.S. Patent Application Publication No. 2003/0050803 to Marchosky (hereinafter "*Marchosky*").

Applicant respectfully traverses the outstanding rejections raised in the Final Office Action, and requests reconsideration and withdrawal thereof in light of the remarks presented herein.

II. Objection to Claim Listing

Applicant respectfully submits a listing of the claims herewith with appropriate spacing to address the objection raised by the Examiner. Therefore, Applicant respectfully requests that the objection to the claim listing be withdrawn.

III. Objection to Claim 41

Claim 41 recites, in part, "wherein the server system is configured to:" perform certain operations. The Final Office Action objects to this language contending that it does "not positively recite the limitation so preceded is required to be performed by the invention covered by the claim", *see* page 2 of the Final Office Action.

First, Applicant notes that the language at issue (i.e., “wherein the server system is configured to:” perform certain operations) was present in claim 41 as originally filed. Further, the Examiner has not previously objected to this language, but instead raises this issue for the first time in the Final Office Action. Clearly, this issue was not raised by Applicant’s previous amendment because the language at issue was present in claim 41 as originally filed. Thus, the Finality of the present Office Action in raising this objection to claim 41 for the first time is improper because Applicant has not been afforded a full and fair opportunity to respond to this objection since it was only raised for the first time in the Final Office Action. Accordingly, Applicant respectfully submits that if the objection is maintained by the Examiner, it should be presented again in a new non-final office action to afford Applicant a full and fair opportunity to respond to the same. However, as discussed further below, Applicant respectfully submits that the objection is improper and should be withdrawn altogether.

It is unclear on what basis the language of claim 41 is objected to. Applicant notes that the Examiner does not contend that the language is unclear (under 35 U.S.C. 112, second paragraph). Instead, the Final Office Action objects to this language as not positively reciting the limitations required to be performed by the claim. Applicant respectfully disagrees. Claim 41 positively recites that the server system “is” configured to perform the operations of “receive medical data records”, “identify one or more of said data fields as a range-based data field”, and “define a plurality of text-based range descriptors”. Claim 41 does not recite, for example, that the server system “may be” or “could be” so configured, but positively recites that it “is” so configured to perform the recited operations. Thus, Applicant respectfully submits that the objection to claim 41 is improper and should be withdrawn because claim 41 clearly recites that the server system is configured to perform the recited operations, thus making clear that such a configuration of the server system for performing the recited operations is required by the claim.

IV. Rejections Under 35 U.S.C. §103

Claims 1-10, 20-30, 41-42, and 53-57 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Lickiss* in view of *Marchosky*. Applicant respectfully traverses these rejections for the reasons discussed hereafter.

The test for non-obvious subject matter is whether the differences between the subject matter and the prior art are such that the claimed subject matter as a whole would have been obvious to a person having ordinary skill in the art to which the subject matter pertains. The United States Supreme Court in *Graham v. John Deere and Co.*, 383 U.S. 1 (1966) set forth the factual inquiries which must be considered in applying the statutory test: (1) determining of the scope and content of the prior art; (2) ascertaining the differences between the prior art and the claims at issue; and (3) resolving the level of ordinary skill in the pertinent art. As discussed further hereafter, Applicant respectfully asserts that the claims include non-obvious differences over the cited art.

As discussed further below, the rejections should be overturned because when considering the scope and content of the applied combination of the *Lickiss* and *Marchosky* references there are significant differences between the combination and claims 1-10, 20-30, 41-42, and 53-57. Thus, considering the lack of any disclosure or suggestion in the applied combination of all elements of claims 1-10, 20-30, 41-42, and 53-57, one of ordinary skill in the art would not find these claims obvious under 35 U.S.C. §103, and therefore the rejections should be withdrawn.

Independent Claim 1

Independent claim 1 recites:

A range-conversion method comprising:
receiving medical data records, wherein each of the medical data records includes at least a portion of a corresponding patient's medical history that includes one or more data fields and a field value associated with each data field;
identifying one or more of said data fields as a range-based data field; and
defining, by an authorized user who has authorized access to the medical data records, a plurality of text-based range descriptors, wherein each text-based range descriptor is associated with a range of field values for one of the range-based data fields. (Emphasis added).

The applied combination of *Lickiss* and *Marchosky* fails to teach or suggest at least the above-emphasized limitations of claim 1. Claim 1 is directed to medical data records that include at least a portion of a corresponding patient's medical history. As is well known in the art, such medical records are special types of data records due to the sensitive nature of the

information they contain and the restrictive access to such information to only certain authorized users, such as a patient's physician. As discussed below, neither *Lickiss* nor the portion of *Marchosky* being relied upon by the Examiner in the Final Office Action concern medical data records (while *Marchosky* mentions medical records, e.g., database 112 of its FIGURE 1, the Examiner cites to portions of *Marchosky* that discuss the separate medical diagnostic program, e.g., program 116 of FIGURE 1, rather than the medical records).

In addition, claim 1 recites that the medical history includes one or more data fields that are identified as a range-based data field, and an authorized user (e.g., a patient's physician) defines a plurality of text-based range descriptors, wherein each text-based range descriptor is associated with a range of values for one of the range-based data fields. For instance, as discussed in paragraphs 0044-0045 of the present application, one such range-based data field included a medical record may be a cholesterol field for a patient, and a text-based range descriptor of "1" may be defined to represent a total cholesterol reading of <150, a text-based range descriptor of "2" may be defined to represent a total cholesterol reading of 150-199, a text-based range descriptor of "3" may be defined to represent a total cholesterol reading of 200-239, a text-based range descriptor of "4" may be defined to represent a total cholesterol reading of 240-274, and a text-based range descriptor of "5" may be defined to represent a total cholesterol reading of >275.

As discussed further hereafter, *Lickiss* and *Marchosky* do not propose any such text-based range descriptors for a range-based data field of a medical record. *Lickiss* does not concern medical data records at all, and while *Marchosky* proposes that its medical diagnostic program may employ a range of codes for its operation in evaluating input responses to questions for attempting to diagnose a patient (*see* paragraphs 0153-0179 of *Marchosky*), it simply fails to address any such descriptor for range-based medical history data contained in the medical data records.

Further, *Marchosky* fails to teach or suggest that an authorized user who has authorized access to the medical data records defines the text-based range descriptors on which the present Final Office Action relies as meeting this limitation. The Final Office Action contends that the sub-sectors in Table IV which are discussed in paragraph 0168 of *Marchosky* constitute the

recited text-based range descriptors. For instance, Table IV of *Marchosky* illustrates “acute pain” having a range of digital codes (from 0-10). However, these digital codes are not taught by *Marchosky* as being range-based data fields in the medical records, but are rather digital codes employed by its medical diagnostic program for controlling the operation of that program in evaluating input responses to questions for attempting to diagnose a patient (*see* paragraphs 0153-0179 of *Marchosky*). Further, *Marchosky* does not teach or suggest that an authorized user defines the text-based range descriptor (e.g., “acute pain”), but instead that “descriptor” appears to be hard-coded into or pre-defined by the medical diagnostic program of *Marchosky* (rather than allowing a physician or other authorized user to define such text-based ranged descriptor, as recited by claim 1).

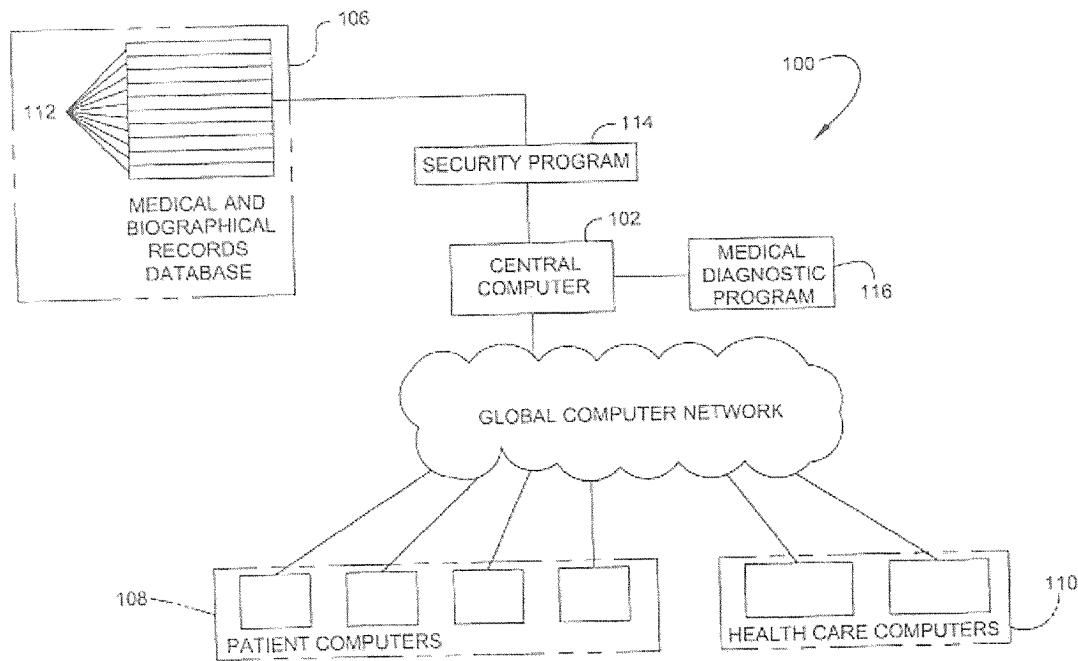
Lickiss is directed generally to an “automated order processing system for a telecommunications services carrier is capable of activating customer orders and provisioning telecommunications services for customers.” Abstract of *Lickiss*. As the Final Office Action concedes (*see* page 3 thereof), *Lickiss* provides no teaching whatsoever regarding medical data records. And, the Final Office Action further appears to concede that *Lickiss* fails to disclose “identifying one or more of said data fields as a range-based data field” and “defining, by an authorized user who has authorized access to the medical data records, a plurality of text-based range descriptors, wherein each text-based range descriptor is associated with a range of field values for one of the range-based data fields”, as the Final Office Action instead relies upon *Marchosky* as teaching or suggesting these limitations of claim 1.

Marchosky is directed generally to a medical records database and medical diagnostic program, *see* Abstract. Individual patient medical and biographical records (that are stored to the medical records database) are owned by individual patients who can enter information in their record as well as grant or deny authorization to others, such as health care professionals. *Id.* The diagnostic program provides a series of diagnostic questions to an individual who must respond either “yes” or “no” to each question. *See* paragraph 0021 of *Marchosky*. Each potential response is weighted relative to its importance to a particular diagnosis, and the weights for the responses are summed to identify potential diagnoses. *See* paragraph 0024 of *Marchosky*. The

list of potential diagnoses determined for a patient may be saved to the patient's individual medical record.

Figure 1 of *Marchosky* is reproduced below.

FIG. 1



As shown in Figure 1, *Marchosky* explains compiling patient-specific medical/biographical records 112. Further, a medical diagnostic program 116 that is external to the data records 112 is included for the purpose of aiding a user in gathering information to be used for diagnosing the patient. Paragraphs 0153-0179 of *Marchosky* and the Tables I-VI (portions of which the Final Office Action relies upon) are directed to describing the operation of the medical diagnostic program 116 and the codes that it employs for its operation in evaluating input responses for diagnosing a patient. Again, this fails to provide any disclosure whatsoever of range-based data fields in the medical records, or of an authorized user defining text-based range descriptors that are associated with a range of field values for the range-based data fields contained in the medical records, as recited by claim 1.

In conclusion, the combination of *Lickiss* and *Marchosky* fails to teach or suggest an authorized user defining text-based range descriptors that are associated with a range of field values for the range-based data fields contained in the medical records. The Final Office Action contends that *Marchosky* discloses this limitation. However, the portions of *Marchosky* that are relied upon by the Final Office Action concern the internal coding/operation of its medical diagnostic program which is employed for evaluating input answers from a user in attempt to diagnose a patient. The relied-upon disclosure of *Marchosky* does not teach or suggest range-based data fields contained in medical records. Further, the relied-upon disclosure of *Marchosky* does not teach or suggest an authorized user defining the text-based range descriptors.

Accordingly, the combination of *Lickiss* and *Marchosky* does not teach or suggest all limitations of claim 1. Therefore, Applicant respectfully requests that the rejection of claim 1 be withdrawn.

Independent Claim 21

Independent claim 21 recites:

A computer program product residing on a computer readable medium having a plurality of instructions stored thereon which, when executed by the processor, cause that processor to:

receive medical data records, wherein each of the medical data records includes at least a portion of a corresponding patient's medical history that includes one or more data fields and a field value associated with each data field;

receive user selection of one or more of said data fields as a range-based data field; and

receive user definition of a plurality of text-based range descriptors, wherein each text-based range descriptor is associated with a range of field values for the selected one or more of the range-based data fields.

For reasons similar to those discussed above with claim 1, independent claim 21 is believed to be patentable over the applied combination of *Lickiss* and *Marchosky*. For instance, neither *Lickiss* nor *Marchosky* teaches or suggests receiving a user definition of a plurality of text-based range descriptors, wherein each text-based range descriptor is associated with a range of field values for selected one or more range-based data fields of a medical data record, as recited by claim 21. As discussed above with claim 1, *Marchosky* discusses text-based range descriptors for internal codes employed by its medical diagnostic program (rather than text-based

range descriptors for fields of a medical data record), and *Marchosky* does not teach or suggest receiving user definition of such text-based range descriptors (but instead its text-based range descriptors are hard-coded or pre-defined by the medical diagnostic program).

Therefore, Applicant respectfully requests that this rejection of independent claim 21 also be withdrawn.

Independent Claim 41

For reasons similar to those discussed above with claim 1, independent claim 41 is believed to be patentable over the applied combination of *Lickiss* and *Marchosky*. Therefore, Applicant respectfully requests that this rejection of independent claim 41 also be withdrawn.

Dependent Claims

Each of dependent claims 2-10, 22-30, 42, and 53-57 depends either directly or indirectly from one of independent claims 1, 21 and 41, and thus each inherits all limitations of the respective independent claim from which it depends. It is respectfully submitted that dependent claims 2-10, 22-30, 42, and 53-57 are allowable not only because of their dependency from their respective independent claim for the reasons discussed above, but also in view of their novel claim features (which both narrow the scope of the particular claims and compels a broader interpretation of their respective independent claim).

V. Conclusion

In view of the above, applicant believes the pending application is in condition for allowance. Applicant believes no fee is due with this response. However, if an additional fee is due, please charge our Deposit Account No. 50-3948, under Order No. 66729/P038US/10614714 from which the undersigned is authorized to draw.

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Respectfully submitted,

By 

Jody C. Bishop

Registration No.: 44,034

FULBRIGHT & JAWORSKI L.L.P.

2200 Ross Avenue, Suite 2800

Dallas, Texas 75201-2784

(214) 855-8007

(214) 855-8200 (Fax)

Attorney for Applicant